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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,221	03/16/2004	Mark C. Carter	EZUP:68114	3569

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FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES, CA 90045

EXAMINER

YIP, WINNIE S

ART UNIT PAPER NUMBER

3637

DATE MAILED: 01/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/802,221

Applicant(s)

CARTER, MARK C.

Examiner

Winnie Yip

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20 and 22 is/are rejected.
- 7) ☒ Claim(s) 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to applicant's amendment filed on November 3, 2004.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-19 have been cancelled. And, claims 20-22 stand pending in the application.

Claim Rejections - 35 USC § 102

1. Claims 20 and 22 stand rejected under 35 U.S.C. 102 (b) as being anticipated by Emard (US Patent No. 4,941,500) .

Emard shows and discloses a telescoping pole assembly for an erectable, collapsible shelter (21) having a plurality of legs (2), the telescoping pole assembly comprising a plurality of telescoping pole members (18) being mounted to the legs, each telescoping pole member including a plurality of first and second hollow telescoping sections (11, 12; or 12, 15) slidably connected together with a spring loaded detent pin via an aperture general telescoping connection (see Fig. 6), wherein telescoping connection, as general, includes a spring loaded detent pin (20) being mounted inside of the second hollow telescoping section (12), and the first hollow telescoping section (15) includes an aperture to receive the detent pin (20) from the second hollow telescoping section such that the second aperture in the first hollow telescoping section (14) providing means for blocking the spring loaded detent pin to lock the first and second hollow telescoping sections (15, 12) together while the first hollow telescoping section (15) is positioned above the second hollow telescoping section (12) and the telescoping pole assembly is raised into a fully extended position, and the aperture providing means being not blocking the spring loaded detent pin when the detent pin is released from the aperture and the

first telescoping section sliding relative to second telescoping section and is positioned below the second telescoping section to allow the telescoping pole assembly to be locked in a collapsible position, and the pole members being pivotally connected together by a central bracket member (14).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lynch (US Patent No. 4,779,635) in view of Emard '500.

Lynch shows and discloses a telescoping pole assembly for an erectable, collapsible shelter (16) having a plurality of legs (22), the telescoping pole assembly comprising a plurality of telescoping pole members (40) being mounted to the legs, each telescoping pole member (40) including first and second hollow telescoping sections (42, 44) slidably connected together by a spring detent pin (45) is mounted inside of one of the second telescoping section (44) via an aperture formed on another telescoping section (44), such that the aperture providing means for blocking the spring loaded detent pin into the aperture to lock two hollow telescoping sections (42, 45) together while the one of hollow telescoping section (42) is positioned above the second hollow telescoping section (45) and the telescoping pole assembly is raised into a fully extended position, and the aperture providing means being not blocking the spring loaded detent pin when the detent pin is released from the second aperture and the first telescoping section is located

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below the second telescoping section to allow the telescoping pole assembly to be locked in a collapsible position, and the pole members being pivotally connected together by a central bracket member (50). Although Lynch only shows the first hollow telescoping section (42) having a spring loaded detent pin (45) being located above the second hollow telescoping section (44), Emard teaches a telescoping pole assemble having a plurality of telescoping pole sections (11, 12; 12, 15; and 3, 4) being telescopically connected one to another by generally telescoping connection which includes a spring loaded detent pin (18, 20) on one pole section engaging and disengaging with an respective aperture on other pole section, as old and well known, being reversibly connected. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the telescoping pole assembly of Lynch having telescoping sections being connected one to another by a telescopic manner including the spring loaded detent pin on one pole section via an aperture on another pole section being reversibly connected as taught by Emard such that the upper pole section would have the aperture providing means for blocking the spring loaded detent pin in the lower pole section for telescopically connecting more than one pairs of hollowing sections one to each other when the assembly in an fully extended position.

Allowable Subject Matter

4. Claim 21 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed November 3, 2004 with respect to the objections to the specification and drawings have been fully considered but they are deemed persuasive. Therefore, the previous objections to the specification and the drawings are withdrawn.

6. Applicant's arguments filed November 3, 2004 with respect to the U.S.C. 102 rejections have been fully considered but they are not persuasive.

In response to applicant's argument that Emard and Lynch do not provide same telescoping connection between the first and second pole sections as claimed, it is not deemed to be persuasive. Claim 20 only claims two telescoping pole sections being telescopically connected with general spring loaded detent pin via an aperture, and such telescoping connection clearly teaches by Emard. Emard discloses the pole assembly having a plurality of pole members connected to the legs, wherein each of the pole members having a plurality of telescoping sections being telescopically connected with respect to each other by an old and well known, telescoping connection such as a spring loaded detent on one pole section to engaging and disengaging an aperture on another adjust pole section. Therefore, as above discussion, due to the weight of the pole member, the upper pole section of Emard which have either part of the telescoping connecting element such as the aperture as claimed will provide the means for blocking the detent pin on the lower telescoping section when the assembly in an fully expending position as claimed. The rejection under Emard is deemed proper.

Although Lynch does not show the pole members of the pole assembly having a plurality of telescoping sections as disclosed by Emard, but to reversibly connect two or more telescoping

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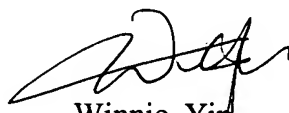
sections clearly teach by Emard with telescoping manner. Therefore, the claims are now rejected under U.S.C. 103 statute in view of Emard.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Winnie Yip
Primary Examiner
Art Unit 3637

wsy
January 3, 2005